

By

Moore

S.B. No. 936

A BILL TO BE ENTITLED

AN ACT

relating to regulation of water well drillers and water well repairmen; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

(1) "water well" means any artificial excavation constructed for the purpose of producing ground water. The term does not include a test or blast hole in a quarry or mine or a well or excavation created for the purpose of exploring for or producing oil, gas, or any other mineral.

(2) "Water well driller" means a person who, for compensation, engages in the drilling, boring, coring, or constructing of a water well. The term includes the owner, operator, and drilling supervisor of a water well drilling business. The term does not include a person who drills, bores, cores, or constructs a water well on his or her own property for his or her own use or a person who assists in the construction of a water well under the direct supervision of a registered water well driller and who is not primarily responsible for the drilling operations.

(3) "Water well repairman" means a person who for compensation repairs or works on water wells in the field.

(4) "Well log" means a log accurately kept at the time of drilling a water well showing the depth, thickness, and character

1 of the different strata penetrated by the drilling, location of
2 water-bearing strata, and the depth, size, and character of casing
3 installed in the well.

4 (5) "Executive director" means the executive director of the
5 Texas Department of Water Resources.

6 (b) "Person" means an individual, corporation, or
7 association.

8 SECTION 2. PROHIBITED CONDUCT. (a) A person may not
9 represent himself or herself to be a water well driller or a water
10 well repairman or act as a water well driller or water well
11 repairman unless the person is registered under this Act.

12 (b) A registered water well driller or registered water well
13 repairman may not:

14 (1) fail to begin a water well drilling job or a water well
15 repair job during the time agreed on by the driller and the person
16 for whom the job is to be performed;

17 (2) charge a person for drilling a water well or performing
18 a water well repair that does not substantially comply with the
19 well or repair that the driller or repairman represented to the
20 person that he or she would drill or perform;

21 (3) charge a person for drilling a water well that does not
22 perform as the driller represented to the person that it would
23 perform;

24 (4) engage in any advertising relating to the practice of
25 water well drilling or water well repair unless the advertisement
26 contains the name of the owner or operator of the water well
27 drilling business or water well repair business; or

1 (5) engage in any false or deceptive advertising relating to
2 the practice of water well drilling or water well repair.

3 SECTION 3. APPLICATION FOR REGISTRATION. An applicant for a
4 water well driller or water well repairman registration must:

5 (1) file with the executive director the person's full name,
6 home and business address, home and business telephone number, and
7 the name of the person's water well drilling business or water well
8 repairman business; and

9 (2) pay to the executive director a \$25 registration fee.

10 SECTION 4. REGISTRATION. (a) The executive director shall
11 issue a water well driller registration or a water well repairman
12 registration to a person who complies with Section 3 of this Act.

13 (b) A registration annually expires on a day set by the
14 executive director as part of a staggered renewal system. The
15 executive director may issue an original registration for a period
16 of less than one year if necessary to conform the registration to
17 the annual expiration system. If a registration is issued for less
18 than one year, the executive director shall prorate the
19 registration fee on a monthly basis. The executive director shall
20 notify a registrant of the expiration day of the registration and
21 the amount of the annual registration renewal fee. The notice
22 shall be mailed to the registrant not later than the 40th day
23 before the expiration day of the registration.

24 (c) A person renews an unexpired registration by paying to
25 the executive director a \$25 registration renewal fee during the 30
26 days preceding the expiration day.

27 SECTION 5. KEEPING INFORMATION CURRENT. If any information

1 contained in a registrant's original application changes, the
2 registrant shall file the correct information with the executive
3 director not later than the 30th day after the day on which the
4 change occurs.

5 SECTION 6. DENIAL, SUSPENSION, OR REVOCATION OF A
6 REGISTRATION. (a) The executive director may deny, suspend, or
7 revoke a water well driller registration or a water well repairman
8 registration if the registrant violates Section 2(b), 5, or 7 of
9 this Act.

10 (b) A person who is denied a water well driller registration
11 or a water well repairman registration by the executive director,
12 is entitled to a hearing before the Texas Water Commission in
13 accordance with the Administrative Procedure and Texas Register
14 Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes),
15 if the person requests the hearing in writing not later than the
16 30th day after the executive director sends notice of the denial to
17 the person.

18 (c) Before the executive director may suspend or revoke a
19 registration, the Texas Water Commission shall conduct a suspension
20 or revocation hearing in accordance with the Administrative
21 Procedure and Texas Register Act, as amended.

22 (d) An appeal from a hearing conducted under Subsection (b)
23 or (c) of this section is governed by the Administrative Procedure
24 and Texas Register Act, as amended.

25 SECTION 7. WELL LOG. (a) A registered water well driller
26 shall give a well log to a person for whom a water well is drilled
27 if the person requests the log before the well is completed.

1 (b) A registered water well driller may not furnish a well
2 log to a person other than the person for whom a water well is
3 drilled unless the driller has the written permission to do so from
4 the person for whom the well is drilled.

5 SECTION 8. RULES AND FORMS. The executive director may
6 adopt rules and forms necessary to administer this Act.

7 SECTION 9. DISPOSITION OF FEES. Fees received by the
8 executive director under this Act shall be deposited in the State
9 Treasury to the credit of the General Revenue Fund.

10 SECTION 10. CIVIL REMEDY. (a) A person who knowingly or
11 intentionally violates Section 2(b) of this Act is liable to a
12 person adversely affected by the violation for three times the
13 amount of actual damages incurred plus court costs and reasonable
14 attorney's fees.

15 (b) In an action filed under this section, a plaintiff may
16 seek and the court, in its discretion, may grant:

17 (1) an order enjoining the defendant in the suit from
18 violating Section 2(b) of this Act;

19 (2) any order necessary to restore to the person any
20 property acquired by the defendant in the suit in violation of
21 Section 2(b) of this Act; or

22 (3) other relief that the court considers proper, including,
23 if the court's judgment against the defendant in the suit is not
24 satisfied within three months after the date of the final judgment,
25 the appointment of a receiver, the revocation of a registration or
26 certificate authorizing the defendant in the suit to engage in
27 business in this state, or an order enjoining the defendant in the

1 suit from acting as a water well driller or water well repairman.

2 (c) If a court finds that a civil action filed under this
3 section is groundless and brought in bad faith or for the purpose
4 of harassment, the court may award court costs and reasonable
5 attorney's fees to the defendant.

6 SECTION 11. CRIMINAL PENALTY. (a) A person commits an
7 offense if the person knowingly or intentionally violates Section
8 2, 5, or 7 of this Act.

9 (b) An offense under this section is a Class B misdemeanor.

10 SECTION 12. SAVING PROVISION. (a) Except as provided by
11 Subsection (b) of this section, this Act does not affect:

12 (1) the prior operation of The Water Well Drillers Act, as
13 amended (Article 7621e, Vernon's Texas Civil Statutes), or any
14 prior action taken under it;

15 (2) any right, privilege, obligation, or liability
16 previously acquired, accrued, accorded, or incurred under The Water
17 Well Drillers Act, as amended;

18 (3) any violation of The Water Well Drillers Act, as
19 amended, or any penalty incurred in respect to that Act prior to
20 its repeal; or

21 (4) any judicial proceeding instituted under The Water Well
22 Drillers Act, as amended, prior to its repeal, in respect to any
23 privilege, obligation, liability, or penalty; and the proceeding or
24 remedy may be continued or enforced, and the penalty imposed, as if
25 that Act had not been repealed.

26 (b) A water well driller's license in effect on the
27 effective date of this Act expires on that effective date.

1 (c) The Water Well Drillers Act (Article 7621e, Vernon's
2 Texas Civil Statutes), as it existed before enactment of this Act
3 is continued in effect for the purposes of this section as if it
4 had not been repealed by this Act.

5 SECTION 13. ABOLITION OF BOARD. The Texas water well
6 Drillers Board is abolished. The records and other property in the
7 custody of the board are transferred to the executive director.

8 SECTION 14. REPEALER. The water well Drillers Act, as
9 amended (Article 7621e, Vernon's Texas Civil Statutes), is
10 repealed.

11 SECTION 15. EFFECTIVE DATE. (a) Except as provided in
12 Subsection (b) of this section, this Act takes effect September 1,
13 1979.

14 (b) Section 2(a) of this Act takes effect January 1, 1980.

15 SECTION 16. EMERGENCY. The importance of this legislation
16 and the crowded condition of the calendars in both houses create an
17 emergency and an imperative public necessity that the
18 constitutional rule requiring bills to be read on three several
19 days in each house be suspended, and this rule is hereby suspended.

By: Moore

S.B. No. 936

(In the Senate - Filed March 8, 1979; March 12, 1979, read first time and referred to Committee on State Affairs; March 22, 1979, reported adversely, with favorable Committee Substitute; March 22, 1979, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.B. NO. 936

By: Moore

A BILL TO BE ENTITLED

AN ACT

relating to regulation of water well drillers and water well repairmen; and to the authority of the executive director of the Texas Department of Water Resources; transferring records and property of the Texas Water Well Drillers Board to the executive director; repealing The Water Well Drillers Act, as amended (Article 7621e, Vernon's Texas Civil Statutes); containing effective dates and a saving clause; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

(1) "Water well" means any artificial excavation constructed for the purpose of producing ground water. The term does not include a test or blast hole in a quarry or mine or a well or excavation created for the purpose of exploring for or producing oil, gas, or any other mineral.

(2) "Water well driller" means a person who for compensation engages in the drilling, boring, coring, or constructing of a water well. The term includes the owner, operator, and drilling supervisor of a water well drilling business. The term does not include a person who drills, bores, cores, or constructs a water well on his or her own property for his or her own use or a person who assists in the construction of a water well under the direct supervision of a registered water well driller and who is not primarily responsible for the drilling operations.

(3) "Water well repairman" means a person who for compensation repairs or works on water wells in the field.

(4) "Well log" means a log accurately kept at the time of drilling a water well showing the depth, thickness, and character of the different strata penetrated by the drilling, location of water-bearing strata, and the depth, size, and character of casing installed in the well.

(5) "Executive director" means the executive director of the Texas Department of Water Resources.

(6) "Person" means an individual, corporation, or association.

SECTION 2. PROHIBITED CONDUCT. (a) A person may not represent himself or herself to be a water well driller or a water well repairman or act as a water well driller or water well repairman unless the person is registered under this Act.

(b) A registered water well driller or registered water well repairman may not:

(1) fail to begin a water well drilling job or a water well repair job during the time agreed on by the driller and the person for whom the job is to be performed if any payment for the job is made before the job begins;

(2) charge a person for drilling a water well or performing a water well repair that does not substantially comply with the well or repair that the driller or repairman represented to the person that he or she would drill or perform;

(3) charge a person for drilling a water well that does not perform as the driller represented to the person that it would perform;

(4) engage in any advertising relating to the practice of water well drilling or water well repair unless the advertisement contains the name of the owner or operator of the water well drilling business or water well repair business; or

(5) engage in any false or deceptive advertising relating to the practice of water well drilling or water well repair.

SECTION 3. APPLICATION FOR REGISTRATION. An applicant for a

1 water well driller or water well repairman registration must:

2 (1) file with the executive director the person's full name,
3 home and business address, home and business telephone number, and
4 the name of the person's water well drilling business or water well
5 repairman business; and

6 (2) pay to the executive director a \$25 registration fee.

7 SECTION 4. REGISTRATION. (a) The executive director shall
8 issue a water well driller registration or a water well repairman
9 registration to a person who complies with Section 3 of this Act.

10 (b) A registration annually expires on a day set by the
11 executive director as part of a staggered renewal system. The
12 executive director may issue an original registration for a period
13 of less than one year if necessary to conform the registration to
14 the annual expiration system. If a registration is issued for less
15 than one year, the executive director shall prorate the
16 registration fee on a monthly basis. The executive director shall
17 notify a registrant of the expiration day of the registration and
18 the amount of the annual registration renewal fee. The notice
19 shall be mailed to the registrant not later than the 40th day
20 before the expiration day of the registration.

21 (c) A person renews an unexpired registration by paying to
22 the executive director a \$25 registration renewal fee during the 30
23 days preceding the expiration day.

24 SECTION 5. KEEPING INFORMATION CURRENT. If any information
25 contained in a registrant's original application changes, the
26 registrant shall file the correct information with the executive
27 director not later than the 30th day after the day on which the
28 change occurs.

29 SECTION 6. DENIAL, SUSPENSION, OR REVOCATION OF A
30 REGISTRATION. (a) The executive director may deny, suspend, or
31 revoke a water well driller registration or a water well repairman
32 registration if the registrant violates Subsection (b) of Section 2
33 or Section 5 or 7 of this Act.

34 (b) A person who is denied a water well driller registration
35 or a water well repairman registration by the executive director is
36 entitled to a hearing before the Texas Water Commission in
37 accordance with the Administrative Procedure and Texas Register
38 Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes),
39 if the person requests the hearing in writing not later than the
40 30th day after the executive director sends notice of the denial to
41 the person.

42 (c) Before the executive director may suspend or revoke a
43 registration, the Texas Water Commission shall conduct a suspension
44 or revocation hearing in accordance with the Administrative
45 Procedure and Texas Register Act, as amended.

46 (d) An appeal from a hearing conducted under Subsection (b)
47 or (c) of this section is governed by the Administrative Procedure
48 and Texas Register Act, as amended.

49 SECTION 7. WELL LOG. (a) A registered water well driller
50 shall give a well log to a person for whom a water well is drilled
51 if the person requests the log before the well is completed.

52 (b) A registered water well driller may not furnish a well
53 log to a person other than the person for whom a water well is
54 drilled unless the driller has the written permission to do so from
55 the person for whom the well is drilled.

56 SECTION 8. RULES AND FORMS. The executive director may
57 adopt rules and forms necessary to administer this Act.

58 SECTION 9. DISPOSITION OF FEES. Fees received by the
59 executive director under this Act shall be deposited in the State
60 Treasury to the credit of the General Revenue Fund.

61 SECTION 10. CIVIL REMEDY. (a) A person who knowingly or
62 intentionally violates Subsection (b) of Section 2 of this Act is
63 liable to a person adversely affected by the violation for three
64 times the amount of actual damages incurred plus court costs and
65 reasonable attorney's fees.

66 (b) In an action filed under this section, a plaintiff may
67 seek and the court in its discretion may grant:

68 (1) an order enjoining the defendant in the suit from
69 violating Subsection (b) of Section 2 of this Act;

70 (2) any order necessary to restore to the person any

property acquired by the defendant in the suit in violation of Subsection (b) of Section 2 of this Act; or

(3) other relief that the court considers proper, including, if the court's judgment against the defendant in the suit is not satisfied within three months after the date of the final judgment, the appointment of a receiver, the revocation of a registration or certificate authorizing the defendant in the suit to engage in business in this state, or an order enjoining the defendant in the suit from acting as a water well driller or water well repairman.

(c) If a court finds that a civil action filed under this section is groundless and brought in bad faith or for the purpose of harassment, the court may award court costs and reasonable attorney's fees to the defendant.

SECTION 11. CRIMINAL PENALTY. (a) A person commits an offense if the person knowingly or intentionally violates Section 2, 5, or 7 of this Act.

(b) An offense under this section is a Class B misdemeanor.

SECTION 12. SAVING PROVISION. (a) Except as provided by Subsection (b) of this section, this Act does not affect:

(1) the prior operation of The Water Well Drillers Act, as amended (Article 7621e, Vernon's Texas Civil Statutes), or any prior action taken under it;

(2) any right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred under The Water Well Drillers Act, as amended;

(3) any violation of The Water Well Drillers Act, as amended, or any penalty incurred in respect to that Act prior to its repeal; or

(4) any judicial proceeding instituted under The Water Well Drillers Act, as amended, prior to its repeal, in respect to any privilege, obligation, liability, or penalty; and the proceeding or remedy may be continued or enforced, and the penalty imposed, as if that Act had not been repealed.

(b) A water well driller's license in effect on the effective date of this Act expires on that effective date.

(c) The Water Well Drillers Act, as amended (Article 7621e, Vernon's Texas Civil Statutes), as it existed before enactment of this Act is continued in effect for the purposes of this section as if it had not been repealed by this Act.

SECTION 13. ABOLITION OF BOARD. The Texas Water Well Drillers Board is abolished. The records and other property in the custody of the board are transferred to the executive director.

SECTION 14. REPEALER. The Water Well Drillers Act, as amended (Article 7621e, Vernon's Texas Civil Statutes), is repealed.

SECTION 15. EFFECTIVE DATE. (a) Except as provided in Subsection (b) of this section, this Act takes effect September 1, 1979.

(b) Subsection (a) of Section 2 of this Act takes effect January 1, 1980.

SECTION 16. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

* * * * *

Austin, Texas
March 22, 1979

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on State Affairs, to which was referred S.B. No. 936, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the Committee Substitute adopted in lieu thereof do pass and be printed.

Moore, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 22, 1979

Honorable William T. (Bill) Moore, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

In Re: Committee Substitute for
Senate Bill No. 936

Sir:

In response to your request pursuant to Senate Rule 94, Subsection (g), this office finds the fiscal implications of Committee Substitute for Senate Bill No. 936 (relating to regulation of water well drillers and water well repairmen; providing penalties) to be as follows:

The bill would make no appropriation but would constitute prior legislative authorization for an appropriative request.


The bill, should it be enacted, would eliminate the need for two Clerk III positions for processing well logs and would create the need for one Engineer Technician III position.

The probable cost of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Cost Out of the General Revenue Fund</u>	<u>Change in Number of State Employees from FY 1979</u>
1980	\$ 7,131	- 1
1981	7,131	- 1
1982	7,131	- 1
1983	7,131	- 1
1984	7,131	- 1

Similar annual costs would continue as long as the provisions of the bill are in effect.

No fiscal implication or additional cost to units of local government attributable to the bill, should it be enacted, is anticipated.


Thomas M. Keel
Director

Source: Texas Department of Water Resources; LBB Staff

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 21, 1979

Honorable William T. (Bill) Moore, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

In Re: Senate Bill No. 936
By: Moore

Sir:

In response to your request pursuant to Senate Rule 94, Subsection (g), this office finds the fiscal implications of Senate Bill No. 936 (relating to regulation of water well drillers and water well repairmen; providing penalties) to be as follows:

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Thomas M. Keel
Director

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 22, 1979

Honorable William T. (Bill) Moore, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

In Re: Committee Substitute for
Senate Bill No. 936

Sir:

In response to your request pursuant to Senate Rule 94, Subsection (g), this office finds the fiscal implications of Committee Substitute for Senate Bill No. 936 (relating to regulation of water well drillers and water well repairmen; providing penalties) to be as follows:

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Thomas M. Keel
Director

Source: Texas Department of Water Resources; LBB Staff

BILL ANALYSIS

PURPOSE: To register water well drillers and water well repairmen.

SECTION ANALYSIS

Section 1: Definitions

- (1) "Water well"
- (2) "Water well driller"
- (3) "Water well repairmen"
- (4) "Well log"
- (5) "Executive director"
- (6) "Person"

Section 2: (a) Unless registered a person may not represent themselves as a water well driller or repairman.

(b) A registered water well driller or repairman may not:

(1) fail to begin drilling or repairing at the agreed upon time if any payment has been given prior to the beginning of the job.

(2) charge for a well or repair that is not what the person agreed to perform.

(3) charge for a well or repair that does not perform as agreed to perform.

(4) advertise to practice water well drilling or repair unless it contains the name of the owner or operator of the business.

(5) engage in false or deceptive advertising.

Section 3: An application for a water well driller or repairman registration must be filed with the executive director with a \$25 registration fee.

Section 4: (a) Registration shall be given to a person who complies with Section 3.

(b) The registration expires annually. In order to comply with the staggered renewal system, a registration may last less than a year. The fee will then be prorated. A renewal notice will be mailed not later than 40 days before the expiration date.

(c) The renewal fee is \$25 to be paid during the 30 days preceding the expiration day.

Section 5: The executive director is to be informed of any change of information from the original application within 30 days.

Section 6: (a) A registration may be revoked, suspended, or denied for a violation of Section 2(b), 5, or 7 of this Act.

(b) A person refused registration is entitled to a hearing before the Texas Water Commission. The written request for a hearing is to be made not later than 30 days after the notice of denial.

(c) The suspension or revocation hearing must be held before the executive director may suspend or revoke registration.

(d) An appeal under Subsection (b) or (c) is to be governed by the Administrative Procedure and Texas Register Act.

Section 7: (a) A registered water well driller shall keep a well log that is open for inspection by the person having the well drilled.

(b) The log is only to be inspected by the person for whom the well is being drilled unless that person gives written permission for another to inspect the log.

Section 8: The rules and forms necessary to administer this Act may be adopted by the executive director.

Section 9: Fees are to be deposited in the State Treasury to the credit of the General Revenue Fund.

Section 10: (a) An intentional violation of Section 2(b) will cost the person three times the actual damages plus court costs and attorney's fees.

(b) A plaintiff may seek and be granted:

(1) an order enjoining the defendant in the suit from violating Section 2(b).

(2) any order necessary to restore any property acquired by the defendant.

(3) other court appointed relief.

(c) If a civil action brought up is groundless or brought in bad faith, the court may award court costs and attorney's fees to the defendant.

Section 11: (a) Knowingly violating Sections 2, 5, or 7 is an offense.

(b) It is a Class C misdemeanor.

Section 12: (a) This does not affect:

(1) prior operation or action of The Water Well Drillers Act.

(2) any previous obligations of The Water Well Drillers Act.

(3) any violation or penalty incurred to that Act.

(4) any judicial proceedings instituted previously by The Water Well Drillers Act.

(b) The exception of this section is that a well driller's license in effect on the effective date of this Act expires on that date.

(c) The Water Well Drillers Act, Article 7621e, V.T.C.S., continues to exist for the purposes of this section.

Section 13: The Texas Water Well Drillers Board is abolished with records and property to be transferred to the executive director.

Section 14: The Water Well Drillers Act is repealed.

Section 15: (a) Most of this Act takes effect September 1, 1979.

(b) Section 2(a) takes effect January 1, 1980.

Section 16: Emergency clause.

Sub. 2
caption

and to the authority of the executive director of the Texas Department of Water Resources; transferring records and property of the Texas Water Well Drillers Board to the executive director; repealing The Water Well Drillers Act, as amended (Article 7621e, Vernon's Texas Civil Statutes); containing effective dates and a savings clause; providing penalties.

Moore

By Moore

S.B. No. 936

Substitute the following for S.B. No. 936:

By _____

C.S.S.B. No. 936

A BILL TO BE ENTITLED

AN ACT

relating to regulation of water well drillers and water well repairmen; ~~providing penalties.~~

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

(1) "Water well" means any artificial excavation constructed for the purpose of producing ground water. The term does not include a test or blast hole in a quarry or mine or a well or excavation created for the purpose of exploring for or producing oil, gas, or any other mineral.

(2) "Water well driller" means a person who^e for compensation^e engages in the drilling, boring, coring, or constructing of a water well. The term includes the owner, operator, and drilling supervisor of a water well drilling business. The term does not include a person who drills, bores, cores, or constructs a water well on his or her own property for his or her own use or a person who assists in the construction of a water well under the direct supervision of a registered water well driller and who is not primarily responsible for the drilling operations.

(3) "Water well repairman" means a person who for^{1/2} compensation repairs or works on water wells in the field.

(4) "Well log" means a log accurately kept at the time of drilling a water well showing the depth, thickness, and character

Type & proof 3/22/79

1 of the different strata penetrated by the drilling, location of
2 water-bearing strata, and the depth, size, and character of casing
3 installed in the well.

4 (5) "Executive director" means the executive director of the
5 Texas Department of Water Resources.

6 (6) "Person" means an individual, corporation, or
7 association.

8 SECTION 2. PROHIBITED CONDUCT. (a) A person may not
9 represent himself or herself to be a water well driller or a water
10 well repairman or act as a water well driller or water well
11 repairman unless the person is registered under this Act.

12 (b) A registered water well driller or registered water well
13 repairman may not:

14 (1) fail to begin a water well drilling job or a water well
15 repair job during the time agreed on by the driller and the person
16 for whom the job is to be performed if any payment for the job is
17 made before the job begins;

18 (2) charge a person for drilling a water well or performing
19 a water well repair that does not substantially comply with the
20 well or repair that the driller or repairman represented to the
21 person that he or she would drill or perform;

22 (3) charge a person for drilling a water well that does not
23 perform as the driller represented to the person that it would²
24 perform; ₃

25 (4) engage in any advertising relating to the practice of
26 water well drilling or water well repair unless the advertisement
27 contains the name of the owner or operator of the water well

1 drilling business or water well repair business; or

2 (5) engage in any false or deceptive advertising relating to
3 the practice of water well drilling or water well repair.

4 SECTION 3. APPLICATION FOR REGISTRATION. An applicant for a
5 water well driller or water well repairman registration must:

6 (1) file with the executive director the person's full name,
7 home and business address, home and business telephone number, and
8 the name of the person's water well drilling business or water well
9 repairman business; and

10 (2) pay to the executive director a \$25 registration fee.

11 SECTION 4. REGISTRATION. (a) The executive director shall
12 issue a water well driller registration or a water well repairman
13 registration to a person who complies with Section 3 of this Act.

14 (b) A registration annually expires on a day set by the
15 executive director as part of a staggered renewal system. The
16 executive director may issue an original registration for a period
17 of less than one year if necessary to conform the registration to
18 the annual expiration system. If a registration is issued for less
19 than one year, the executive director shall prorate the
20 registration fee on a monthly basis. The executive director shall
21 notify a registrant of the expiration day of the registration and
22 the amount of the annual registration renewal fee. The notice²⁴
23 shall be mailed to the registrant not later than the 40th day
24 before the expiration day of the registration.

25 (c) A person renews an unexpired registration by paying to
26 the executive director a \$25 registration renewal fee during the 30
27 days preceding the expiration day.

1 SECTION 5. KEEPING INFORMATION CURRENT. If any information
2 contained in a registrant's original application changes, the
3 registrant shall file the correct information with the executive
4 director not later than the 30th day after the day on which the
5 change occurs.

6 SECTION 6. DENIAL, SUSPENSION, OR REVOCATION OF A
7 REGISTRATION. (a) The executive director may deny, suspend, or
8 revoke a water well driller registration or a water well repairman
9 registration if the registrant violates, *Subsection (b) of* Section 2 *or Section* 5 *or* 7 of
10 this Act.

11 (b) A person who is denied a water well driller registration
12 or a water well repairman registration by the executive director *e*
13 is entitled to a hearing before the Texas Water Commission in
14 accordance with the Administrative Procedure and Texas Register
15 Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes),
16 if the person requests the hearing in writing not later than the
17 30th day after the executive director sends notice of the denial to
18 the person.

19 (c) Before the executive director may suspend or revoke a
20 registration, the Texas Water Commission shall conduct a suspension
21 or revocation hearing in accordance with the Administrative *1/5*
22 Procedure and Texas Register Act, as amended.

23 (d) An appeal from a hearing conducted under Subsection (b)
24 or (c) of this section is governed by the Administrative Procedure
25 and Texas Register Act, as amended.

26 SECTION 7. WELL LOG. (a) A registered water well driller
27 shall give a well log to a person for whom a water well is drilled

1 if the person requests the log before the well is completed.

2 (b) A registered water well driller may not furnish a well
3 log to a person other than the person for whom a water well is
4 drilled unless the driller has the written permission to do so from
5 the person for whom the well is drilled.

6 SECTION 8. RULES AND FORMS. The executive director may
7 adopt rules and forms necessary to administer this Act.

8 SECTION 9. DISPOSITION OF FEES. Fees received by the
9 executive director under this Act shall be deposited in the State
10 Treasury to the credit of the General Revenue Fund.

11 SECTION 10. CIVIL REMEDY. (a) A person who knowingly or
12 intentionally violates ^{Subsection (b) of} Section 2~~14~~ of this Act is liable to a
13 person adversely affected by the violation for three times the
14 amount of actual damages incurred plus court costs and reasonable
15 attorney's fees.

16 (b) In an action filed under this section, a plaintiff may
17 seek and the court^e in its discretion^e may grant:

18 (1) an order enjoining the defendant in the suit from
19 violating ^{Subsection (b) of} Section 2~~(b)~~ of this Act;

20 (2) any order necessary to restore to the person any ^{5/6}
21 property acquired by the defendant in the suit in violation of
22 ^{Subsection (b) of} Section 2~~(b)~~ of this Act; or

23 (3) other relief that the court considers proper, including,
24 if the court's judgment against the defendant in the suit is not
25 satisfied within three months after the date of the final judgment,
26 the appointment of a receiver, the revocation of a registration or
27 certificate authorizing the defendant in the suit to engage in

1 business in this state, or an order enjoining the defendant in the
2 suit from acting as a water well driller or water well repairman.

3 (c) If a court finds that a civil action filed under this
4 section is groundless and brought in bad faith or for the purpose
5 of harassment, the court may award court costs and reasonable
6 attorney's fees to the defendant.

7 SECTION 11. CRIMINAL PENALTY. (a) A person commits an
8 offense if the person knowingly or intentionally violates Section
9 2, 5, or 7 of this Act.

10 (b) An offense under this section is a Class B misdemeanor.

11 SECTION 12. SAVING PROVISION. (a) Except as provided by
12 Subsection (b) of this section, this Act does not affect:

13 (1) the prior operation of The Water Well Drillers Act, as
14 amended (Article 7621e, Vernon's Texas Civil Statutes), or any
15 prior action taken under it;

16 (2) any right, privilege, obligation, or liability
17 previously acquired, accrued, accorded, or incurred under The Water
18 Well Drillers Act, as amended;

19 (3) any violation of The Water Well Drillers Act, as
20 amended, or any penalty incurred in respect to that Act prior to
21 its repeal; or

22 (4) any judicial proceeding instituted under The Water Well
23 Drillers Act, as amended, prior to its repeal, in respect to any
24 privilege, obligation, liability, or penalty; and the proceeding or
25 remedy may be continued or enforced, and the penalty imposed, as if
26 that Act had not been repealed.

27 (b) A water well driller's license in effect on the

1 effective date of this Act expires on that effective date.

2 (c) The Water Well Drillers Act ^{, as amended} (Article 7621e, Vernon's
3 Texas Civil Statutes), as it existed before enactment of this Act
4 is continued in effect for the purposes of this section as if it
5 had not been repealed by this Act.

6 SECTION 13. ABOLITION OF BOARD. The Texas Water Well
7 Drillers Board is abolished. The records and other property in the
8 custody of the board are transferred to the executive director.

9 SECTION 14. REPEALER. The Water Well Drillers Act, as
10 amended (Article 7621e, Vernon's Texas Civil Statutes), is
11 repealed.

12 SECTION 15. EFFECTIVE DATE. (a) Except as provided in
13 Subsection (b) of this section, this Act takes effect September 1,
14 1979.

15 ^{Subsection (a) of}
(b) ^{Section 24} of this Act takes effect January 1, 1980.

16 SECTION 16. EMERGENCY. The importance of this legislation
17 and the crowded condition of the calendars in both houses create an ¹/₈
18 emergency and an imperative public necessity that the
19 constitutional rule requiring bills to be read on three several
20 days in each house be suspended, and this rule is hereby suspended.

S.B. No. 936

By Moore

AN Act relating to regulation of water well drillers and water well repairmen; providing penalties.

3-8-79 Filed with the Secretary of the Senate
MAR 12 1979 Read, referred to Committee on STATE AFFAIRS
~~MAR 12 1979~~ Reported favorably.
MAR 22 1979 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.
Ordered not printed.
Senate and Constitutional Rules to permit consideration suspended by
 { unanimous consent.
 _____ yeas, _____ nays.
To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.
Read second time and { ordered engrossed.
 { passed to third reading.
Caption ordered amended to conform to body of bill.
Senate and Constitutional 3-Day Rules suspended by vote of
 _____ yeas, _____ nays to place bill on third reading and final passage.
Read third time and passed by { a viva-voce vote.
 { _____ yeas, _____ nays.

OTHER ACTION:

Secretary of the Senate

Engrossed

Sent to HOUSE

ENGROSSING CLERK

Received from the Senate

Read first time and referred to Committee on _____

Reported favorably amended, sent to Printer at _____

Printed and Distributed _____

Sent to Committee on Calendars _____

Read Second time (amended): passed to third reading (failed)
by (Non-Record Vote) Record Vote of _____ yeas, _____ nays

Present, not voting.

Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas _____ nays _____ present not voting.

Read third time (amended); finally passed (failed) by a (Non-Record Vote) Record Vote of _____ yeas _____ nays _____ present not voting.

Caption ordered amended to conform to body of bill.

Returned to Senate.

Chief Clerk of the House